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(typed 4/12/65)

4-5-65

April 13, 1965

129-11

P. W.

RECORD

MEMORANDUM FOR: Honorable McGeorge Bundy
Special Assistant to the President

RE: Public Availability of Materials Delivered to the National Archives by the President's Commission on the Assassination of President Kennedy.

The Department of Justice has completed the study, requested by you in your memorandum of January 18, 1965, concerning the advisability of modifying the usual restrictions which would govern the availability to the public of materials delivered to the National Archives by the President's Commission on the Assassination of President Kennedy. In the course of this study, the Department of Justice has obtained the views of the President's Commission, the Archivist of the United States, the interested Federal agencies and the Dallas Police Department.

Under normal regulations governing access to materials deposited in the National Archives, materials are made available to any competent adult with a definite, serious reason for requesting access, unless there is in effect an overriding restriction on disclosure or disclosure would violate obvious requirements of public policy or propriety. With respect to investigative reports furnished to the President's Commission by Federal agencies, the relevant restriction is a rule of nondisclosure for a period of 75 years unless the agency in which the report originated authorizes disclosure.

KWS
4/2/65

The Chief Justice has informed me in a letter dated April 5, 1965, that the President's Commission concluded, after full consideration, that the public availability of the Commission's records was a matter to be resolved by the Attorney General and the originating agencies in accordance with established law and policies

Records ✓ Mr. Willens Attorney General
Mr. Weinreb Mr. Miller Deputy Attorney General

SENT DIRECT FROM
CRIMINAL DIVISION MAIL ROOM
DATE: 4-13-65
Hand carried BY ~~[illegible]~~ to George [illegible] WH

of the Government. According to the Chief Justice, the Commission assumed that these determinations would be made in light of "the overriding consideration of the fullest possible disclosure." Moreover, the Commission did not desire to restrict access to any of its working papers except those classified by other agencies.

Based on the views of the Commission and the recommendations of the Federal agencies involved (summarized in the Attachment to this letter), the Department of Justice believes that there should be some modification of the normal procedures of the National Archives. The Department recommends that the following procedures be adopted in order to accomplish the most complete disclosure consistent with other legitimate interests:

1. All material furnished to the President's Commission by the Dallas Police Department and the Immigration and Naturalization Service should be made available to the public on a regular basis, since both agencies have authorized full disclosure.

2. Investigative reports and related materials furnished to the President's Commission by other Federal agencies should be administered in accordance with the existing regulations of the National Archives. These agencies should be requested to examine the materials furnished by them with a view to authorizing the immediate disclosure on a regular basis of as much of the materials as possible. (Where materials originated with an agency other than the one furnishing them to the Commission, the decision regarding disclosure should be made by the originating agency.) The following guidelines should be applied:

   a. Statutory requirements of nondisclosure should be observed;

   b. Security classifications should be respected, but the agency responsible for the classification should consider whether the classification can be eliminated or graded down consistently with the national security;

c. All unclassified material which has been disclosed verbatim or in substance in the Report of the President's Commission or accompanying published documents should be made available to the public on a regular basis. (In this connection, it should be noted that the Archivist has advised that a final determination of which reports have been published in whole or in part, verbatim or in substance, will not be available before 1966.)

d. Unclassified material which has not already been disclosed in another form should be made available to the public on a regular basis unless disclosure

1) will be detrimental to the administration and enforcement of the laws and regulations of the United States and its agencies;

2) may reveal the identity of confidential sources of information or the nature of confidential methods of acquiring information, and thereby prevent or limit the use of the same or similar sources and methods in the future;

3) may lead to the incorrect identification of sources of information and thereby embarrass individuals or the agency involved;

4) would be a source of embarrassment to innocent persons, who are the subject or source of the material in question, because of the dissemination of gossip and rumor or details of a personal nature having no significant connection with the assassination of the President;

5) will reveal material pertinent to the criminal prosecution of Jack Ruby for the murder of Lee Harvey Oswald, prior to the final judicial determination of that case.

Where one of the above reasons for nondisclosure may apply, the agency involved should weigh such reason against the "overriding consideration of the fullest possible disclosure" in determining whether or not to authorize disclosure.

e. Except in special cases, documents should be withheld or disclosed in their entirety.

3. Classified and unclassified material which is not made available to the public should be reviewed by the agency concerned five years and ten years after the initial examination has been completed. The criteria applied in the initial examination, outlined above, should be applied to determine whether changed circumstances will permit further disclosure. Similar reviews should be undertaken at ten-year intervals during the remainder of the 75-year period of nondisclosure. The Archivist should undertake to arrange for such review at the appropriate times.

4. When a request for limited disclosure of particular unclassified documents or groups of documents is received by the Archivist, he should communicate such request to the agency concerned, which should consider the request in the light of the criteria outlined above and, wherever consistent with those criteria, authorize the limited disclosure requested. In the application of the criteria, consideration should be given to the qualifications of the person requesting disclosure and the purpose for which the request is made.

It should be noted that the Archivist has indicated that the arrangement and preparation of an inventory of the material turned over to the National Archives by the President's Commission will not be completed until June 1, 1965. Accordingly, it is unlikely that a review of the material turned over to the Commission by the various agencies can be undertaken before that date. It is suggested that the Archivist be asked to make arrangements with the various agencies for such review to be undertaken at the earliest possible date, to be carried out on an expedited basis.

The Archivist has advised that the disposition of materials originating with the President's Commission itself has been discussed with Mr. Rankin and that a final decision has been deferred until after June 1. He has advised also that pending a determination of the ownership of physical exhibits, requests for access to them will be referred to the Department of Justice. While it is anticipated that the fullest possible disclosure of these portions of the record will be authorized, in accordance with the desires of the President's Commission, the Department believes that particular decisions as to them should not be made until information regarding them is complete.

If these procedures meet with your approval, this Department will prepare the necessary instructions.

Nicholas deB. Katzenbach

Attorney General